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Trident and international law

MPs voted in 2016 in favour of building four submarines for a new nuclear weapons system to replace Britain's current one, Trident. But all the facts continue to stack up against Britain's nuclear weapons system, irrespective of this shameful vote, not least its legality.

International treaties

The use of nuclear weapons would be illegal under international law in almost all conceivable circumstances, as attested by several international declarations and conventions.

International Court of Justice (ICJ)

The United Nations General Assembly has previously sought to clarify the legal status of nuclear weapons, asking the ICJ whether the threat or use of nuclear weapons in any circumstances is permitted under international law.

In response, the ICJ presented an Advisory Opinion in 1996. This is the one of the few authoritative judicial decisions on the legality of nuclear weapons under international law. The majority of the 14 ICJ judges concluded: 'the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law.'

Three judges actually favoured a stronger decision, that nuclear weapon use is illegal under all circumstances. One of these, Judge Stephen M. Schwebel, remarked in his dissenting opinion: 'It cannot be accepted that the use of nuclear weapons on a scale which would - or could - result in the deaths of many millions in indiscriminate inferno and by far-reaching fallout, have pernicious effects in space and time, and render uninhabitable much or all of the earth, could be lawful.'

Hague Convention

The Hague Convention (1907) is a treaty that predates the invention of nuclear weapons. It prohibits 'employ[ing] arms, projectiles, or material calculated to cause unnecessary suffering'. Nuclear weapons are unique in their devastation. The heat flash from a nuclear explosion literally vaporises all human tissue. People inside buildings or otherwise

shielded will be indirectly killed by the blast and heat effects as buildings collapse and all inflammable materials burst into flames. Those in underground shelters who survive the initial heat flash could die as all the oxygen is sucked out of the atmosphere. Outside the area of total destruction, others will suffer from fatal burns, will be blinded, bleeding from glass splinters and will have suffered massive internal injuries.

Further expanding on the 'unnecessary suffering', the effects of radiation from the explosion will last decades after the initial exposure. Radiation-induced cancers will affect many, often decades later. The children of those exposed to radiation are statistically more likely to be born with abnormalities and suffer from leukaemia.

Universal Declaration of Human Rights

Nuclear weapon use would violate rights enshrined in the Universal Declaration of Human Rights (1948). Nuclear weapons directly contravene Article 3, the 'right to life, liberty and security of person'.

The nuclear fallout would violate Article 25, the 'right to a standard of living adequate for the health and well-being of himself and of his family'.

Geneva Convention

The Geneva Convention (1949) aims to protect vulnerable populations during times of war. This includes the wounded, sick, infirm, expectant mothers, civilian hospitals and health workers.

The Red Cross has stated it would not be possible to provide an adequate humanitarian response to a nuclear attack. The death rate will be higher than in a normal disaster since most emergency services will be incapable of responding due to their equipment being destroyed and staff killed. The sheer scale of the casualties would overwhelm any country's medical resources. There is currently no

international plan in place to deliver humanitarian assistance to survivors in the case of a nuclear attack. Most casualties would receive at best minimal, palliative treatment. The best they could hope for would be to die in as little pain as possible

The Protocols Additional to the Geneva Convention

Protocol I to the Geneva Convention has several articles relevant to nuclear weapon use. Geneva Convention Protocol I (1977) states that ‘the civilian population shall not be the object of attack’. Article 51 of the Protocol also states that ‘indiscriminate attacks are prohibited’. The very nature of a nuclear weapon contravenes these protocols - it is impossible to use on selectively on a single military target. Civilian casualties would be unavoidable.

The Convention prohibits ‘methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment’. Nuclear weapon use would cause widespread, long-term and severe damage to the natural environment. Radioactive fallout can travel vast distances.

To give some idea of the effects, the Chernobyl nuclear plant accident caused the contamination of five million acres of land in Ukraine. Research by the International Red Cross shows the effect of a ‘limited’ nuclear war. The disrupted global climate would have an overwhelming impact on food production meaning up to a billion people around the world would face starvation.

Commitment to disarm

The UK has agreed to disarm its nuclear arsenal as a signatory to an international treaty. The continued possession of Trident and the intention to remain nuclear-armed for decades to come means Britain is not living up to its obligations.

NPT Treaty

Britain is a signatory to the 1968 nuclear Non-Proliferation Treaty (NPT). Article VI of the NPT commits each of the ‘official’ nuclear states (Britain, United States, Russia, China and France) to eliminate its nuclear arsenal, while the other 185 signatories commit to remaining nuclear-weapon free: *Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament.*

Although the UK government has almost halved its nuclear warhead stockpile since signing the treaty, it still possesses 215 nuclear bombs. And to compound matters, it is currently building the submarines for a brand new nuclear weapons system, with the intention of remaining nuclear-armed until at least 2060. This will be almost a 100 years since signing a treaty agreeing to disarm ‘at an early date’!

The Review Conferences of the NPT, held every five years, have failed to break the logjam and make genuine progress towards nuclear disarmament, largely because of obstruction

by the nuclear weapons states. The most recent Review Conference in May 2015 failed to reach any agreement.

Global ban

It is in this context of frustration that the international initiative to secure a global ban on nuclear weapons began.

Following various conferences and statements, the United Nations adopted a resolution, supported by the vast majority of the world, agreeing to convene a conference in March and June 2017 to negotiate a global nuclear ban treaty.

123 countries voted in favour of beginning negotiations, with only 38 voting against. Those opposed included the UK, the USA, France, Israel and Russia. North Korea voted in favour of the ban conference. The other nuclear states (India, Pakistan and China) abstained.

The first session took place in March 2017. Representatives from over 100 countries took part in the discussions, while the UK continued to boycott the process and even stood alongside Donald Trump’s representative in denouncing the talks.

The first part of the session saw representatives give speeches on the general principles of the ban and give their reasons for support, with the dissenting voices coming from Japan and the Netherlands. Japan said that without the involvement of the nuclear weapons states the process would increase divisions in the international community, while the Netherlands said any treaty must be compatible with NATO doctrine on nuclear weapons.

Discussions then moved on to the details of what would be included in the treaty. There was wide support for prohibitions on the use, threat of use, stockpiling and deployment of nuclear weapons.

A draft treaty will be published in May, before a second round of negotiations in June and July to finalise the details.

The UK government did not attend the first session of the conference. The UK is – perplexingly - defending its non-support of a multilateral initiative by saying it’s because the negotiating conference hinders multilateral efforts to get rid of nuclear weapons. The government states that it believes a treaty banning nuclear weapons is not compatible with the nuclear Non-Proliferation Treaty (NPT), even though its intention is the same thing.

The UK government has repeatedly said that it shares CND’s goal of a nuclear weapons-free world but its refusal to engage with this disarmament initiative raises questions about its commitment to international obligations to get rid of nuclear weapons.

Conclusion

Nuclear weapons have no legitimate purpose: their use would be illegal under almost every conceivable circumstance, as huge

numbers of civilian casualties would be unavoidable. That is why continued possession of nuclear weapon means that Britain is contravening international rulings and declarations.

The UK government continues to state its commitment to multilateral nuclear disarmament while refusing to actually take any concrete step forward.

Replacing the Trident nuclear weapons system demonstrates a failure of vision on the part of our government. It has failed to

notice that the overwhelming majority of states in the world continue to insist that we comply with our international treaty obligation to disarm. Far from enhancing our status, our continued failure to disarm does us enormous harm in the eyes of the global majority.

Preventing Trident replacement remains an urgent priority for CND. We want to see a world without nuclear weapons, and stopping Trident is part of that process.

